

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Sean Pak (Bar No. 219032)

2 seanpak@quinnemanuel.com

Melissa Baily (Bar No. 237649)

3 melissabaily@quinnemanuel.com

James Judah (Bar No. 257112)

4 jamesjudah@quinnemanuel.com

Lindsay Cooper (Bar No. 287125)

5 lindsaycooper@quinnemanuel.com

Iman Lordgooei (Bar No. 251320)

6 imanlordgooei@quinnemanuel.com

50 California Street, 22nd Floor

7 San Francisco, California 94111-4788

Telephone: (415) 875-6600

8 Facsimile: (415) 875-6700

9 Marc Kaplan (*pro hac vice*)

marckaplan@quinnemanuel.com

10 191 N. Wacker Drive, Ste 2700

Chicago, Illinois 60606

11 Telephone: (312) 705-7400

Facsimile: (312) 705-7401

12 *Attorneys for Google LLC*

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION

16 SONOS, INC.,

17 Plaintiff,

18 vs.

19 GOOGLE LLC,

20 Defendant.

Case No. 3:20-cv-06754-WHA

Related to Case No. 3:21-cv-07559-WHA

**DECLARATION OF JOCELYN MA IN  
SUPPORT OF GOOGLE LLC'S REVISED  
OMNIBUS ADMINISTRATIVE MOTION  
TO FILE UNDER SEAL PURSUANT TO  
THE COURT'S ORDER RE PENDING  
MOTIONS TO SEAL (DKT. 817)**

1 I, Jocelyn Ma, declare and state as follows:

2 1. I am an attorney licensed to practice in the State of California and am admitted to  
3 practice before this Court. I am an associate at Quinn Emanuel Urquhart & Sullivan LLP representing  
4 Google LLC (“Google”) in this matter. I have personal knowledge of the matters set forth in this  
5 Declaration, and if called as a witness I would testify competently to those matters.

6 2. I make this declaration in support of Google’s Revised Omnibus Administrative  
7 Motion to File Under Seal Pursuant to the Court’s Order Re Pending Motions to Seal (Dkt. 817)  
8 (“Revised Omnibus Administrative Motion”). If called as a witness, I could and would testify  
9 competently to the information contained herein.

10 3. The Revised Omnibus Administrative Motion seeks an order sealing the materials  
11 identified in the charts contained within the motion. The documents or portions thereof identified in  
12 that chart contain or refer to information that Google believes should be sealed under the applicable  
13 legal standards after a careful review to narrow its requests to seal in the individual administrative  
14 motions to file under seal and supporting declarations filed previously in this case. The “Basis for  
15 Sealing” column of the chart in the Revised Omnibus Administrative Order cites to paragraphs in this  
16 supporting declaration that explain why each type of information should be sealed.

17 **A. Legal Standard**

18 4. I understand that requests for sealing in the context of non-dispositive motions are  
19 analyzed under the “good cause” standard of the Federal Rule of Civil Procedure 26(c). *Kamakana v.*  
20 *City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual*  
21 *Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)). Federal Rule of Civil Procedure  
22 26(c) provides in relevant part that “[t]he court may, for good cause, issue an order to protect a party  
23 or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or  
24 more of the following: (A) forbidding the disclosure . . . ; . . . (G) requiring that a trade secret or other  
25 confidential research, development, or commercial information not be revealed . . . .” Fed. R. Civ. P.  
26 26(c)(1) (emphases added).

27 5. I understand that requests for sealing in the context of dispositive motions are analyzed  
28 under the “compelling reasons” standard. *Kamakana*, 447 F.3d at 1178. Material should be sealed

1 under the heightened “compelling reasons” standard to prevent “the use of records to gratify private  
 2 spite, promote public scandal, circulate libelous statements, or release trade secrets” (*id.*), as well as to  
 3 prevent court records from becoming “sources of business information that might harm a litigant’s  
 4 competitive standing,” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

5 **B. The Court Should Seal Google’s Source Code and Technical Product**  
 6 **Information**

7 6. Certain documents or portions thereof identified in the chart included in the Revised  
 8 Omnibus Administrative Order that cite this paragraph should be sealed because they contain source  
 9 code for Google’s products, describe the operation of source code for Google’s products, and/or detail  
 10 the operation of Google’s technology—including products and technology that were not at issue  
 11 during the trial and thus were not discussed in open court, such as the YouTube casting functionality  
 12 and Tungsten product. I understand that Google considers and treats this information to as trade  
 13 secret, highly confidential, and proprietary, and does not disclose this information publicly. The  
 14 public disclosure of such source code and technical information would harm the competitive standing  
 15 that Google has earned through years of innovation by allowing Google’s competitors to benefit from  
 16 Google’s investments in research and development, and by revealing Google’s trade secrets and  
 17 sensitive aspects of its proprietary systems and designs to Google’s competitors. Accordingly, if this  
 18 information were made public, Google’s competitive standing would be harmed.

19 7. I understand that under both the “good cause” and the heightened “compelling reasons”  
 20 standard, courts have determined that this type of source code and technical information merits  
 21 sealing. *See, e.g., In re Koninklijke Philips Pat. Litig.*, No. 18-CV-01885-HSG, 2020 WL 1865294, at  
 22 \*2 (N.D. Cal. Apr. 13, 2020) (sealing “source code” [and] . . . “information related to technical  
 23 production” because “[t]he public release of these documents could give non-party competitors an  
 24 unfair advantage in developing rival products”); *Finjan, Inc. v. Proofpoint, Inc.*, No. 13-CV-05808-  
 25 HSG, 2016 WL 7429304, at \*2 (N.D. Cal. Feb. 9, 2016) (granting sealing of “information about the  
 26 technical operation of the products”). I also understand that this Court has previously granted sealing  
 27 of this type of information. *See, e.g.,* Dkt. 518 at 6, 8, 12, 13. A less restrictive alternative than  
 28 sealing these documents or portions thereof would not be sufficient because the information sought to

1 be sealed is Google's confidential business information and trade secrets, but had to be utilized by  
2 Google throughout the litigation.

3 **C. The Court Should Seal Personally Identifiable Information**

4 8. Certain documents or portions thereof identified in the chart included in the Revised  
5 Omnibus Administrative Order that cite this paragraph should be sealed because they contain  
6 references to personally identifiable information, including a Google employee's home address. This  
7 information is not relevant to the merits of the litigation and may cause privacy and/or security issues  
8 for the Google employee and his family. I understand that courts have held that this type of  
9 information merits sealing under the heightened "compelling reasons" standard. *See, e.g., Nursing*  
10 *Home Pension Fund v. Oracle Corp.*, No. C01-00988 MJJ, 2007 WL 3232267, at \*2 (N.D. Cal. Nov.  
11 1, 2007) ("The Ninth Circuit has found that compelling reasons exist to keep personal information  
12 confidential to protect an individual's privacy interest and to prevent exposure to harm or identity  
13 theft."); *Snapkeys, Ltd. v. Google LLC*, No. 19-CV-02658-LHK, 2021 WL 1951250, at \*3 (N.D. Cal.  
14 May 14, 2021) (granting motion to seal personally identifiable information). A less restrictive  
15 alternative than sealing these documents or portions thereof would not be sufficient because the  
16 information sought to be sealed is personal information of a Google employee but was sought by  
17 Sonos during the employee's deposition.

18 **D. The Court Should Seal Google's Confidential Business Information**

19 9. Certain documents or portions thereof identified in the chart included in the Revised  
20 Omnibus Administrative Order that cite this paragraph should be sealed because they reference highly  
21 sensitive product revenue, sales, and cost data and royalty rate figures from which revenue data could  
22 be deduced—including for products and technology that were not at issue during the trial and thus  
23 were not discussed in open court, such as the YouTube applications. I understand that Google  
24 considers and treats this information to as highly confidential business information, and does not  
25 disclose this information publicly. The public disclosure of such financial information would harm  
26 Google's competitive standing and create a risk of injury by providing Google's competitors with  
27 information that Google does not have similar access to about their competitors, allowing the  
28 competitors to gain a competitive advantage in the market place. It would also reveal to suppliers,

1 retailers, and other parties information that they could use to gain an advantage when negotiating  
2 contracts and agreements with Google. Accordingly, if this information were made public, Google’s  
3 competitive standing would be harmed. In addition, this information was not utilized by either party  
4 during trial to calculate damages and thus “would do little to aid the public’s understanding of the  
5 judicial process, but would have the potential to cause significant harm[.]” *Network Appliance, Inc. v.*  
6 *Sun Microsystems Inc.*, No. C-07-06053 EDL, 2010 WL 841274, at \*3 (N.D. Cal. Mar. 10, 2010).

7 10. I understand that under both the “good cause” and the heightened “compelling reasons”  
8 standard, courts have determined that this type of product revenue, sales, and cost information merits  
9 sealing. *See, e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12-CV-03844-JST,  
10 2015 WL 984121, at \*5 (N.D. Cal. Mar. 4, 2015) (sealing “confidential information relating to sales,  
11 revenues, profits and costs” under the good cause standard); *Finjan, Inc. v. Proofpoint, Inc.*, No. 13-  
12 CV-05808-HSG, 2016 WL 7429304, at \*2 (N.D. Cal. Feb. 9, 2016) (granting sealing of “financial  
13 revenue data” under the compelling reasons standard). A less restrictive alternative than sealing these  
14 documents or portions thereof would not be sufficient because the information sought to be sealed is  
15 Google’s confidential business information but had to be utilized by Google throughout the litigation.

16 11. Certain documents or portions thereof identified in the chart included in the Revised  
17 Omnibus Administrative Order that cite this paragraph should be sealed because they reference highly  
18 confidential business information, including internal surveys, conjoint studies, and lifetime value  
19 analyses regarding Google products, and discussions and documents regarding business strategy and  
20 future plans for Google products—many of which were not discussed during trial in open court. I  
21 understand that Google considers and treats this information as highly confidential business  
22 information, and does not disclose this information publicly. The public disclosure of such financial  
23 information would harm Google’s competitive standing and create a risk of injury by providing  
24 Google’s competitors with information that Google does not have similar access to about their  
25 competitors, allowing the competitors to gain a competitive advantage in the market place, including  
26 by releasing same or similar products. It would also provide Google’s competitors with an unfair  
27 advantage by allowing them to benefit from Google’s research and development to compete against  
28

1 Google. Accordingly, if this information were made public, Google’s competitive standing would be  
2 harmed.

3 12. I understand that courts have determined that this type of confidential business  
4 information involving internal survey, studies, and analyzes and business strategy merits sealing under  
5 the heightened “compelling reasons” standard. *See, e.g., Krieger v. Atheros Commc'ns, Inc.*, No. 11-  
6 CV-640-LHK, 2011 WL 2550831, at \*1 (N.D. Cal. Jun. 25, 2011) (finding information regarding  
7 party's “long-term financial projections, discussions of business strategy, and competitive analyses”  
8 sealable under the compelling reasons standard); *Prescott v. Reckitt Benckiser LLC*, No. 20-CV-  
9 02101-BLF, 2023 WL 2465778, at \*2 (N.D. Cal. Mar. 9, 2023) (noting that “[t]he Ninth Circuit has  
10 found” “internal business strategies [and] internal communications” appropriate for sealing); *Arista*  
11 *Networks, Inc. v. Cisco Sys., Inc.*, No. 16-cv-00923-BLF, 2018 WL 2010622, \*2-3 (N.D. Cal. Apr.  
12 30, 2018) (sealing “highly confidential” information relating to litigant’s “financial information and  
13 internal development strategies”). A less restrictive alternative than sealing these documents or  
14 portions thereof would not be sufficient because the information sought to be sealed is Google’s  
15 confidential business information but had to be utilized by Google throughout the litigation.

16 13. Certain documents or portions thereof identified in the chart included in the Revised  
17 Omnibus Administrative Order that cite this paragraph should be sealed because they reference the  
18 existence and terms of confidential agreements that were not at issue at trial and thus not discussed in  
19 open court—including patent licensing and purchase agreements and a term sheet between Google and  
20 Sonos—as well as confidential licensing negotiations between Google and Sonos. I understand that  
21 Google considers and treats this information as highly confidential business information, and does not  
22 disclose this information publicly. The public disclosure of such financial information would harm  
23 Google’s competitive standing and its ability to negotiate future licensing agreements by giving  
24 competitors access and insight into Google’s highly confidential business thinking, asymmetrical  
25 information about Google’s licensing strategies, and Google’s prior licensing terms to other entities.  
26 Accordingly, if this information were made public, Google’s competitive standing would be harmed.

27 14. I understand that under both the “good cause” and the heightened “compelling reasons”  
28 standard, courts have determined that this type of information regarding contracts and licensing

1 negotiations merits sealing. *See, e.g., Icon-IP Pty*, 2015 WL 12976921, at \*3 (granting motion to seal  
 2 “sensitive business information regarding the amount of royalties received under a licensing  
 3 agreement and also detailed information regarding a confidential licensing and manufacturing  
 4 agreement” under the good cause standard); *In re Koninklijke Philips Pat. Litig.*, 2020 WL 1865294,  
 5 at \*2 (sealing “the existence and terms of confidential licenses and settlement agreements” under the  
 6 compelling reasons standard); *Fed. Trade Comm’n v. Qualcomm Inc.*, No. 17-CV-00220-LHK, 2018  
 7 WL 6575544, at \*2 (N.D. Cal. Dec. 12, 2018) (“This Court has previously granted the parties’  
 8 motions to seal information pertaining to specific ‘patent licensing agreements or negotiations’ on the  
 9 basis that such information reveals competitive sensitive business information.”). I also understand  
 10 that this Court has previously granted sealing of the same and/or similar information. *See, e.g., Dkt.*  
 11 334 at 5. A less restrictive alternative than sealing these documents or portions thereof would not be  
 12 sufficient because the information sought to be sealed is Google’s confidential business information  
 13 but had to be utilized by Google throughout the litigation.

14 15. Certain documents or portions thereof identified in the chart included in the Revised  
 15 Omnibus Administrative Order that cite this paragraph should be sealed because they reference  
 16 internal, non-public usage metrics for the YouTube applications, installations data for Google  
 17 applications identified by each fiscal quarter, and installations and financial data for third-party  
 18 IFTTT. I understand that the information regarding the YouTube applications was not at issue during  
 19 trial, that Sonos’s damages theory based on IFTTT was ultimately excluded as unreliable, and that the  
 20 data for the Google applications was not discussed at trial in open court at this level of granularity.  
 21 Thus, disclosure of this information “would do little to aid the public’s understanding of the judicial  
 22 process, but would have the potential to cause significant harm[.]” *Network Appliance, Inc. v. Sun*  
 23 *Microsystems Inc.*, No. C-07-06053 EDL, 2010 WL 841274, at \*3 (N.D. Cal. Mar. 10, 2010). I  
 24 understand that Google considers and treats this information as highly confidential business  
 25 information, and does not disclose this information publicly. The public disclosure of this information  
 26 could harm Google’s competitive standing and create a risk of injury by providing competitors with  
 27 access to information that Google does not have similar access to about their competitors, and could  
 28 allow competitors to gain an unfair advantage over Google in future business or licensing negotiations

1 that may be affected by metrics and usage information of Google’s applications. It may also allow  
2 competitors and/or bad actors to manipulate or gain insight into how Google maintains its data. In  
3 addition, Google has an interest in protecting the financial and metrics data of the products that its  
4 developers host on the Google Play Store. Accordingly, if this information were made public,  
5 Google’s competitive standing and relationships with its developer partners would be harmed.

6 16. I understand that courts have determined that similar product performance-related  
7 metrics merit sealing under the “compelling reasons” standard. *Williams v. Apple, Inc.*, No. 19-CV-  
8 04700-LHK, 2021 WL 2476916, at \*3 (N.D. Cal. June 17, 2021) (finding that “public disclosure of  
9 key metrics” such as the “iCloud userbase . . . would harm Apple's competitive standing”); *Music Grp.*  
10 *Macao Com. Offshore Ltd. v. Foote*, No. 14-CV-03078-JSC, 2015 WL 3993147, at \*1 (N.D. Cal. June  
11 30, 2015)(recognizing that “sources of business information that might harm a litigant's competitive  
12 strategy,” such as “customer usage information kept confidential by a company that could be used to  
13 the company's competitive disadvantage,” can be sealed under the “compelling reasons” standard)  
14 (cleaned up). A less restrictive alternative than sealing these documents or portions thereof would not  
15 be sufficient because the information sought to be sealed is Google’s confidential business  
16 information but had to be utilized by Google throughout the litigation.

17 17. Certain documents or portions thereof identified in the chart included in the Revised  
18 Omnibus Administrative Order that cite this paragraph should be sealed because they reference terms  
19 of a confidential business agreement between Google and Sonos, details regarding a collaboration  
20 between Google and Sonos, and discussion about a potential partnership between the parties that never  
21 launched. I understand that this information was not the subject of a summary order or at issue during  
22 trial, and thus “would do little to aid the public’s understanding of the judicial process, but would have  
23 the potential to cause significant harm[.]” *Network Appliance*, , 2010 WL 841274, at \*3. I also  
24 understand that Google considers and treats this information as highly confidential business  
25 information, and does not disclose this information publicly. The public disclosure of such financial  
26 information would harm Google’s competitive standing and create a risk of injury by providing  
27 Google’s competitors with access and insight into Google’s highly confidential business thinking,  
28 asymmetrical information about Google’s business strategies, and Google’s prior partnership terms to

1 other entities. It would also impede Google's ability to negotiate future partnership agreements.  
2 Accordingly, if this information were made public, Google's competitive standing would be harmed.

3 18. I understand that courts have determined that this type of information regarding  
4 confidential business agreements and business partnerships and merits sealing under the heightened  
5 "compelling reasons" standard. *See, e.g., Koninklijke Philips N.V. v. Elec-Tech Int'l Co.*, No. 14-CV-  
6 02737-BLF, 2015 WL 581574, at \*1 (N.D. Cal. Feb. 10, 2015) (sealing emails regarding 'potential  
7 partnerships with other product manufacturers'); *In re Qualcomm Litig.*, No. 3:17-CV-0108-GPC-  
8 MDD, 2018 WL 6252523, at \*2 (S.D. Cal. May 9, 2018) ("[T]he Court is satisfied that compelling  
9 reasons exist to seal the unredacted portions of the pleading that concern . . . details of . . . business  
10 strategies" and "exhibits that contain various confidential business agreements executed among the  
11 parties."). I also understand that this Court has previously granted sealing of the same and/or similar  
12 information. *See, e.g.,* Dkt. 334 at 5. A less restrictive alternative than sealing these documents or  
13 portions thereof would not be sufficient because the information sought to be sealed is Google's  
14 confidential business information but had to be utilized by Google throughout the litigation.

15 19. Certain documents or portions thereof identified in the chart included in the Revised  
16 Omnibus Administrative Order that cite this paragraph should be sealed because they reference  
17 business strategy and future plans for Google products, and/or technology that Google is developing  
18 but has not yet released. I understand that Google considers and treats this information as highly  
19 confidential business information, and does not disclose this information publicly. The public  
20 disclosure of such financial information would harm Google's competitive standing and create a risk  
21 of injury by providing Google's competitors with access and insight into Google's highly confidential  
22 business thinking, asymmetrical information about Google's business strategies, and future business  
23 plans, which could allow a competitor to develop and launch the same or similar technologies to  
24 unfairly compete against Google. I understand that courts have determined that this type of  
25 information merits sealing under the heightened "compelling reasons" standard. *See, e.g., Network*  
26 *Appliance, Inc.*, 2010 WL 841274, at \*4 (N.D. Cal. Mar. 10, 2010) (sealing "NetApp's future business  
27 plans"); *BBK Tobacco & Foods LLP v. Cent. Coast Agric. Inc.*, No. CV-19-05216-PHX-MTL, 2021  
28

1 WL 5578864, at \*3 (D. Ariz. Nov. 29, 2021) (sealing “future business plans, including information  
2 regarding potential future product releases”).

3 20. Certain documents or portions thereof identified in the chart included in the Revised  
4 Omnibus Administrative Order that cite this paragraph should be sealed because they reference  
5 locations of Google’s servers that are used for the operation of its products. I understand that Google  
6 considers and treats this information as highly confidential business information, and does not disclose  
7 this information publicly. The public disclosure of such financial information would harm Google’s  
8 competitive standing and create a risk of injury by providing the public with access into Google’s  
9 network infrastructure which could potentially cause security risks. I understand that courts have  
10 determined that courts have sealed similar information. *See, e.g., In re PersonalWeb Techs., LLC Pat.*  
11 *Litig.*, No. 18-MD-02834-BLF, 2019 WL 13033990, at \*2 (N.D. Cal. Dec. 16, 2019) (granting sealing  
12 of information regarding cloud servers). A less restrictive alternative than sealing these documents or  
13 portions thereof would not be sufficient because the information sought to be sealed is Google’s  
14 confidential business information but was included in documents utilized in the litigation.

15 **E. The Court Should Seal Compensation Information**

16 21. Certain documents or portions thereof identified in the chart included in the Revised  
17 Omnibus Administrative Order that cite this paragraph should be sealed because they reference  
18 compensation information for Google engineers. I understand that Google considers and treats this  
19 information as confidential business information, and does not disclose this information publicly. The  
20 public disclosure of such compensation information would harm Google’s competitive standing as an  
21 employer by impairing future negotiations with other employees and undermining Google’s ability to  
22 hire or retain employees. It would also give competitors access to information that Google does not  
23 have similar access to about their competitors, allowing them to gain a competitive advantage when  
24 hiring. Accordingly, if this information were made public, Google’s competitive standing would be  
25 harmed.

26 22. I understand that under both the “good cause” and the heightened “compelling reasons”  
27 standard, courts have determined that this type of compensation information merits sealing. *See, e.g.,*  
28 *In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, 2018 WL 3067783, at \*2 (N.D. Cal.

1 Mar. 16, 2018) (“This Court has previously found good cause to seal excerpts of documents  
2 containing ‘confidential compensation information such as salaries, stock options, and other  
3 benefits.’”); *Houerman v. Comtech TeleCommunications Corp.*, No. 2:19-CV-00644-RAJ, 2021 WL  
4 54766, at \*3 (W.D. Wash. Jan. 6, 2021) (sealing “highly confidential employee compensation  
5 information” under the compelling reasons standard because of the “‘likelihood of improper use by  
6 competitors’”). A less restrictive alternative than sealing these documents or portions thereof would  
7 not be sufficient because the information sought to be sealed is Google’s confidential business  
8 information, but had to be utilized by Google throughout the litigation in connection with damages.

9 I declare under penalty of perjury under the laws of the United States of America that to the  
10 best of my knowledge the foregoing is true and correct. Executed on July 3, 2023, in San Francisco,  
11 California.

12 DATED: July 3, 2023

13 By: /s/ Jocelyn Ma  
14 Jocelyn Ma  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTESTATION**

I, Sean Pak, am the ECF user whose ID and password are being used to file the above Declaration. In compliance with Civil L.R. 5-1, I hereby attest that Jocelyn Ma has concurred in the aforementioned filing.

DATED: July 3, 2023

/s/ Sean Pak

Sean Pak